

REMARKS

The claims are 28-47, with claim 28 being the sole independent claim. Claims 1-27 have been canceled without prejudice or disclaimer. Support for claims 28-47 may be found throughout the specification and in claims 1-27.

Support for the combination of a compound of the invention with a selective serotonin reuptake inhibitor (SSRI) or a noradrenaline re-uptake inhibitor (SNRI) (claims 41, 45, and 47) may be found on page 12, lines 14-17. Support for the treatment of depression using a 5-HT_{2C} receptor antagonist in combination with a selective serotonin reuptake inhibitor or a noradrenaline re-uptake inhibitor (claims 45 and 47) may be found in the documents listed in the IDS submitted herewith. The listed documents include journal articles describing *in vivo* studies demonstrating the potentiation of SSRI-induced increases in hippocampal serotonin levels by selective 5-HT_{2C} receptor antagonists (Cremers et al., *Neuropsychopharmacology*, 29: 1782-1789 (2004)) and an increase in extracellular dopamine levels upon injection of nefazodone, a serotonin/noradrenaline reuptake inhibitor and 5-HT_{2C} receptor antagonist (Dremencov et al., *Neuropharmacology*, 48: 34-42 (2005)).

Claims 1-27 were rejected under 35 U.S.C. 112, first paragraph. Applicants traverse these rejections. Cancellation of claims 1-27 renders these rejections moot, however, Applicants will address the rejections to the extent that they may apply to the pending claims.

Applicants respectfully submit that one of ordinary skill in the art would be able to make and use the invention defined in the pending claims. The Examiner had previously indicated that the specification was only enabling for compounds of formula (I) where, among the other recited variables, X is equal to carbonyl, a is 1 or 2, and R³ is an optionally substituted N-linked heterocycle which is piperidinyl or morpholinyl. The Examiner further states:

“In the instant case none of the working examples contains any radicals Y, a, b, X, A, R₁, R₂, and R₃ equal to moieties other than those stated to be enabled above.”
(emphasis added)

This is simply not correct. Applicants respectfully submit that the Examiner has mischaracterized the structures of the compounds described in the subject application that provide enablement for the pending claims. For example, X is equal to either CH₂ or CH in

all of the examples except for Example 18. In Example 6, a is equal to 0, and in Examples 7 and 11, R^3 is equal to dialkylamino.

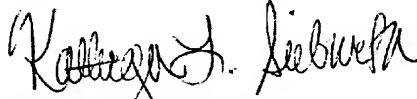
Applicants object to the Examiner's conclusion that the invention is allegedly non-enabled based on the number of compounds claimed in the invention. The standard for determining whether the specification meets the enablement requirement is whether or not the experimentation needed to practice the invention is undue or unreasonable. The fact that experimentation may be complex does not necessarily make it undue, if the art typically engages in such experimentation. (MPEP 2164.01). Applicants have provided a number of synthetic procedures which would enable one of ordinary skill in the art to prepare the compounds of the claimed invention.

Additionally, the Examiner has alleged that undue experimentation would be required to test the compounds of the invention. Applicants disagree and submit that routine screening assays to determine the binding affinities of compounds to the 5-HT_{2C} receptor (as exemplified in International Publication No. WO 94/04533 A1) were well known in the art at the time of the invention and could be performed by one of ordinary skill without undue experimentation. The Examiner further contends that Applicants do not disclose any working examples of any compounds used to treat any of the claimed diseases. However, providing clinical trial results is not a requirement to establish enablement, particularly, as here, where the art (see references cited in the IDS) supports the claimed method of treatment. Reconsideration is respectfully requested.

Appln. No.: 10/501,317
Group Art Unit No.: 1625

In view of the foregoing amendments and remarks, Applicants respectfully submit that the subject application is in condition for allowance. If the Examiner has any remaining objections or concerns, the Examiner is respectfully requested to contact Applicants' undersigned attorney to resolve such issues and advance the case to issue.

Respectfully submitted,



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